

FILED

JUL 24 2023

United States District Court
Eastern District of North Carolina
Western Division

PETER A. MOORE, JR., CLERK
US DISTRICT COURT, EDNC
BY [Signature] DEP CLK

Case No. _____

(To be filled out by Clerk's Office only)

Christopher Kaycell Neale

Inmate Number 1020546

(In the space above enter the full name(s) of the plaintiff(s).)

-against-

COMPLAINT

(Pro Se Prisoner)

Dr. David E White, Medical Supervisor Scott,

BN Storm, LPU mail

Jury Demand?

☒ Yes

☐ No

(In the space above enter the full name(s) of the defendant(s). If you cannot fit the names of all of the defendants in the space provided, please write "see attached" in the space above and attach an additional sheet of paper with the full list of names. The names listed in the above caption must be identical to those contained in Section IV. Do not include addresses here.)

NOTICE

Federal Rule of Civil Procedure 5.2 addresses the privacy and security concerns resulting from public access to electronic court files. Under this rule, papers filed with the court should *not* contain: an individual's full social security number or full birth date; the full name of a person known to be a minor; or a complete financial account number. A filing may include *only*: the last four digits of a social security number; the year of an individual's birth; a minor's initials; and the last four digits of a financial account number.

I. COMPLAINT

Indicate below the federal legal basis for your claim, if known. This form is designed primarily for pro se prisoners challenging the constitutionality of their conditions of confinement, claims which are often brought under 42 U.S.C. § 1983 (against state, county, or municipal defendants) or in a "Bivens" action (against federal defendants).

- ☒ 42 U.S.C. § 1983 (state, county, or municipal defendants)
- ☐ Action under *Bivens v. Six Unknown Federal Narcotics Agents*, 403 U.S. 388 (1971) (federal defendants)
- ☐ Action under Federal Tort Claims Act (United States is the proper defendant; must have presented claim in writing to the appropriate Federal agency and received a notice of final denial of the claim pursuant to 28 U.S.C. § 2401(b))

II. PLAINTIFF INFORMATION

Christopher Lylell Heale
Name

1080596
Prisoner ID #

Tabor C.I.
Place of Detention

4600 Swamp Fox highway
Institutional Address

Tabor City
City

N.C.
State

28463
Zip Code

III. PRISONER STATUS

Indicate whether you are a prisoner or other confined person as follows:

- ☐ Pretrial detainee ☐ State ☐ Federal
- ☐ Civilly committed detainee
- ☐ Immigration detainee
- ☒ Convicted and sentenced state prisoner
- ☐ Convicted and sentenced federal prisoner

IV. DEFENDANT(S) INFORMATION

Please list the following information for each defendant. If the correct information is not provided, it could result in the delay or prevention of service. Make sure that the defendant(s) listed below are identical to those contained in the above caption. Attach additional sheets of paper as necessary.

Defendant 1: Dr. David E. White
Name
Facility Doctor
Current Job Title
4600 Swamp Fox highway
Current Work Address
Tabor City N.C. 28463
City State Zip Code
Capacity in which being sued: ☐ Individual ☒ Official ☐ Both

Defendant 2: BN Scott
Name
medical Supervisor
Current Job Title
4600 Swamp Fox highway
Current Work Address
Tabor City N.C. 28463
City State Zip Code
Capacity in which being sued: ☐ Individual ☒ Official ☐ Both

Defendant(s) Continued

Defendant 3: RN Scott
Name
Registered Nurse
Current Job Title
4600 Swamp Fox highway
Current Work Address
Tabor City N.C. 28463
City State Zip Code

Capacity in which being sued: ☐ Individual ☒ Official ☐ Both

Defendant 4: LPN mayo
Name
Licensed Practical Nurse
Current Job Title
4600 Swamp Fox highway
Current Work Address
Tabor City N.C. 28463
City State Zip Code

Capacity in which being sued: ☐ Individual ☒ Official ☐ Both

V. STATEMENT OF CLAIM

Place(s) of occurrence: Tabor Correctional Institution

Date(s) of occurrence: June 22, 2022 - Current

State which of your federal constitutional or federal statutory rights have been violated:

7th Amendment and ADA 42 U.S.C. § 12101

State here briefly the FACTS that support your case. Describe how each defendant was personally involved in the alleged wrongful actions, state whether you were physically injured as a result of those actions, and if so, state your injury and what medical attention was provided to you.

FACTS:

Who
did what to
you?

I the Plaintiff Christopher Layzell Nealey, Assest that I have been diagnosed With Eosinophilic Esophagitis. Eosinophilic Esophagitis is a condition in which certain white blood cells, called Eosinophils, are found in the Esophagus. It Results in pain, difficulty swallowing, and heartburn. It is a chronic allergic and immune condition. Dr. White has refused to follow the Instructions & Recommendations of the E.N.T. specialist, The G.I. doctor, and all other Medical Experts in Properly Treating and Providing the Necessary Medications & Diet to Remove the Symptoms associated with this chronic allergic and immune condition. Medical Supervisor Scott has refused to follow the Recommended Medicational Instructions to provide Apple Sauce or Apple Juice to be taken with Medication in order to ensure its Effectiveness.

Medical supervisor Scott, RN Storm, and LPN Mayo have collectively Refused to Provide me with a functioning CPAP Medical device which I have a Prescription and standing order to have due to Me having chronic Sleep Apnea which causes Me to stop Breathing in my sleep. Additionally they have all Refused to Treat and Provide me with the medications that were recommended and Prescribed by medical Specialist.

What
happened
to you?

Since June of 2022, I've been to the Hospital 4 times to have food removed from my throat and to have my throat stretched. I've had to have my uvula removed to help me be able to swallow food due to damage caused during a stretching of my throat, which left a large amount of scar tissue in my throat. I've experienced extreme constipation resulting in anal bleeding and damage. In having anxiety attacks, experiencing sleep deprivation, becoming asphyxiated when I attempt to sleep.

When did it
happen to
you?

These incidents occurred between the dates of June 22 2022 until current date.

Where did it
happen to
you?

Tabor City Correctional Institution, Tabor City N.C. 28413

What was
your
injury?

- Four Hospitalization to have Food Removed From My Throat
- Hospitalization to have Throat Sclerched
- Hospitalization to have My Uvula Surgically Removed
- Stomach Pain
- Anal Bleeding
- Anxiety Attacks
- Sleep deprivation
- Asphyxia

VI. ADMINISTRATIVE PROCEDURES

WARNING: Prisoners must exhaust administrative procedures before filing an action in federal court about prison conditions. 42 U.S.C. § 1997e(a). Your case may be dismissed if you have not exhausted your administrative remedies.

Have you filed a grievance concerning the facts relating to this complaint? ☒ Yes ☐ No

If no, explain why not:

Is the grievance process completed? ☒ Yes ☐ No

If no, explain why not:

VII. RELIEF

State briefly what you want the court to do for you. Make no legal arguments. Cite no cases or statutes.

Declaratory Judgment stating Defendants continuous denial of Medical and Health care treatment
violates Plaintiff Rights Under the 8th Amendment of The U.S. Constitution, defendants Actions in failing to provide
adequate Medical care for Plaintiff violated and continue to violate the Plaintiff's Right Under the 8th
Amendment to the U.S. Constitution, Carry out without delay the treatment directed by ENT doctor,
G.I. Specialist, and other Medical Specialist who treated Plaintiff. \$250,000 Nominal damages
\$375,000 Compensatory Damages, \$375,000 Punitive Damages from each defendant, Grant such
other Relief as it may appear that Plaintiff is entitled.

VIII. PRISONER'S LITIGATION HISTORY

The "three strikes rule" bars a prisoner from bringing a civil action or an appeal in forma pauperis in federal court if that prisoner has "on three or more occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury." 28 U.S.C. §1915(g).

Have you brought any other lawsuits in state or federal court while a prisoner?

☒ Yes

☒ No

If yes, how many? 1

Number each different lawsuit below and include the following:

- Name of case (including defendants' names), court, and docket number
- Nature of claim made
- How did it end? (For example, if it was dismissed, appealed, or is still pending, explain below.)

• Christopher LaFell Morley Vs. North Carolina Dep't. of Corrections

• negligence claim

• dismissed

IX. PLAINTIFF'S DECLARATION AND WARNING

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending or modifying existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Each Plaintiff must sign and date the complaint and provide prison identification number and prison address.

Dated

Ce J

Plaintiff's Signature

Printed Name

Christopher Lezell Neal

Prison Identification #

41885

Prison Identification #

4600 Swamp Fox highway

Prison Address

Tidder City

City

N.C.

State

28463

Zip Code